

REMARKS/ARGUMENTS

Telephone Interview:

Applicants thank the Examiner for his courtesy in conducting a telephone interview on June 7, 2005 with Applicants' Representative.

In the telephone interview, the Examiner and Applicants' Representative discussed the nature of the invention and possible claim amendments.

Examiner and Applicants' Representative discussed the possible allowability of features relating to the visible container identifiers displayed in relation to the containers at the retail location and on the corresponding fastener pages accessible through the user interface. The Examiner did not express a firm view on the allowability of such features during the telephone interview. Nevertheless, such features are recited for the Examiner's consideration in amended independent claims 1 and 38 and new dependent claims 47, 49 and 51 and independent claim 52.

The Examiner suggested that features relating to displaying on a fastener page use information concerning recommended use of the fastener shown on that page would be an allowable feature. These features are recited in amended independent claim 30 and new dependent claims 43-46, 48 and 53.

Request for Continued Examination:

Applicants have concurrently filed herewith a Request for Continued Examination.

Amendments:

This amendment is responsive to the office action dated February 9, 2004. Claims 1 – 37 are pending in the application. Claims 1 – 37 stand rejected.

As a result of amendments made herewith, claims 1, 5, 13-18, 21, 23-25, 30 and 35-38 are currently amended. Claims 2-4, 11, 12, 27-29, 31-34 and 39 are cancelled and claims 40-53 are new.

New claims 40-44 depend directly or indirectly on claim 1. The support for new claims 41 and 42 is found in paragraph 35 of the specification. New claims 43 and 44 are supported by the drawings.

New claims 45-47 depend directly or indirectly on claim 18. New claims 45-46 are supported by the drawings and new claim 47 is supported by paragraph 35 of the specification.

New claims 48 and 49 depend directly or indirectly on claim 30 and are supported by the drawings.

New independent claim 50 corresponds substantially with original claim 27, but also includes the limitations of original claims 28 and 29. New claim 51 depends on claim 50 and is supported by original claims 1, 2 and 25.

New independent claim 52 is based on original independent claim 11, but with further limitations directed to the fasteners and shelves on which the fasteners are stocked.

New claim 53 depends on claim 52 and is supported by the drawings, for example such as figures 6, 7 13, 14.

Claim 1 is amended to incorporate the limitations of claim 2-4. Claims 5 and 6 are amended consequent to the amendments to claim 1. Claims 13-17 are amended to depend on claim 1, instead of claim 11 or 12 (which are now cancelled).

Claim 18 is amended to incorporate the limitations of previous claims 19 and 20. The dependencies of claims 21, 23 and 24 are amended to depend directly on amended claim 18.

Claim 30 is amended to recite features of the selection pages and detail pages in greater detail, including the limitations of previously presented claims 31-34 (which are now cancelled). Claims 35 to 37 are amended to correspond with the changes to claim 30.

Claim 38 is amended in a similar manner to claim 1.

Claim Rejections:

The Examiner has rejected claims 1-10, 38 and 39 as being unpatentable over Cohen et al (6,507,352) in view of Brewaeys et al (4,408,693) under §103(a).

Applicants respectfully submit that Cohen et al and Brewaeys are not properly combinable but that, nevertheless, claims 1, 5-10 and 38, as amended, distinguish over Cohen et al in view of Brewaeys.

Claims 2-4 and 39 are cancelled. Accordingly, the Examiner's rejection of these claims is moot.

Aspects of the present invention are generally directed to addressing problems associated specifically with vending fasteners in a retail environment. As described in the background section of the specification of the present application, the vending of fasteners to retail consumers presents significant challenges that are not generally encountered in retailing other goods. There are numerous varieties of fasteners and, for each variety of fasteners, there are usually many types and many sizes of each type. Further, each size and type may come in a variety of materials. Screws alone can account for over 1,000 different specific products in a retailer's stock.

Many fastener products are suited for particular applications, while not being particularly suited for other uses. Typically, consumers in need of a fastener are not versed in all of the different varieties of fasteners available and may have difficulty selecting the most appropriate fastener for a situation. Even when the appropriate fastener product is known, it is often a time-consuming process for the consumer to find precisely where the appropriate fastener is located within the retail establishment.

Recent retail trends in hardware retail have resulted in very large home improvement centers becoming popular. These centers typically provide larger product lines than local hardware stores and there is consequently a greater likelihood that a specific fastener will be more difficult for a consumer to locate amidst the numerous other smaller products. Further, large home improvement centers typically encourage self-service, particularly in relation to products like fasteners which have a very low profit margin for the retailer.

Whether in a small or large hardware store, because of the inherent difficulties in selecting and locating an appropriate fastener amongst the numerous different fastener varieties, types, sizes and materials, consumers are likely to seek assistance from a customer service representative. However, consumer purchases of fastener products are generally for relatively low dollar amounts and the cost to the retailer of having their customer service staff continually providing time-consuming consultations to consumers on such low profit margin products as fasteners can have a significantly negative impact on the profitability of selling fasteners.

It is in the context of vending fasteners, which by their very nature require treatment different to other retail productions, that the present invention was created, in order to facilitate profitable sales of fasteners and provide customer satisfaction by being a "user-friendly" retail establishment.

By contrast, in a retail setting such as a department store, there is typically sufficient profit margin associated with the product lines carried by the department store that the department store can support a number of sales staff to help consumers make their product selections and purchases. This is the context in which the retail transaction terminal of Cohen et al operates. Further, products carried by a department store, such as hi-fi equipment or televisions, may be stocked in some variety, but the consumer may readily browse and select from the available varieties of such products without requiring such close and time-consuming inspection as would be required with fastener products. By their nature, such larger and higher-margin consumer goods do not require use information to be provided on pages on the retail transaction terminal, nor is there any requirement for such goods to be stocked in containers and marked with visible container identifiers.

Brewaeys discloses a blister pack, which is described as "a box-shaped holder for bringing to sale the most varied goods. Such blister packs are much used for selling spikes, screws, washers, plugs, etc." (column 1, lines 528). Brewaeys does mention screws, which is one type of fastener, but Brewaeys is directed to teaching an improved blister pack, rather than selling numerous varieties of fasteners. Brewaeys does not refer to "fasteners", nor does Brewaeys contain any relevant disclosure beyond the mere mention of screws. Brewaeys therefore does not touch fasteners or address ways of vending or selecting fasteners. Brewaeys points to certain problems faced in structural aspects of forming and using blister packs. The object of Brewaeys is "to provide a blister pack which can easily be cut out from the support it is welded on, whereby the holder with cover released from said support may be used as box (sic)." (Column 1, lines 31 to 35).

Applicants can find no motivation in Brewaeys to combine its blister pack teachings with the retail transaction terminal of Cohen et al. This is at least partly because the problem addressed by Brewaeys is entirely different to that of Cohen et al. Further, Cohen et al do not provide any motivation to combine a retail transaction terminal (which can help a customer to find a department for high-margin retail goods)

with the blister pack construction of Brewaeyes. Applicants submit that Cohen and Brewaeyes relate to disparate and unrelated arts and that neither reference contains any motivation to combine with the other.

The Cohen and Brewaeyes references, even if combinable, do not disclose all of the features of amended claim 1. In particular, the combination of Cohen et al and Brewaeyes does not disclose vending fasteners to retail consumers, involving stocking numerous varieties of fasteners at a retail outlet in selected locations in containers, each containing one of the varieties of fasteners and having a visible container identifier for readily identifying the container.

Further, neither Cohen nor Brewaeyes, alone or in combination, disclose fastener pages which have icons including graphical images of the fasteners, wherein information, the icons and retail location identifiers and container identifiers are presented on the fastener pages.

The arrangement claimed in claim 1 advantageously allows a consumer to access the fastener pages through the user interface and, once a fastener page is located which shows the desired fastener, the consumer can view the location of a fastener, including a visible container identifier which the consumer can use to readily identify the fastener at the specified location indicated by the retail location identifier. Thus, the method of claim 1 is particularly advantageous for facilitating the location and, if the consumer so wishes, purchase of a particular fastener, numerous variety of fasteners.

The interactive retail terminal described in Cohen et al does not indicate a visible container identifier in relation to the consumer goods which can be shown on the display of the terminal. This is because such consumer goods have an entirely different character than fasteners, for example such as televisions, stereos and video recorders. Such goods do not require to be stocked in containers, nor are they stocked in such wide variety among the containers that they would require visible container identifiers on

the containers themselves and on the corresponding product pages. Further, Brewaeys does not disclose or suggest visible container identifiers for the containers themselves which correspond to visible container identifiers on the fastener pages accessible by the consumer. Accordingly, neither Cohen nor Brewaeys, alone or in combination, disclose all of the features of claim 1.

For the reasons given above, it is respectfully submitted that amended claim 1 is distinguished over Cohen et al and Brewaeys, alone or in combination. It is further submitted that claims 5-10 and 13-17, which depend on claim 1, are allowable for similar reasons to those described in relation to claim 1 and by virtue of reciting further distinguishing features.

The Examiner has rejected claims 11 – 13, 14, 16, 17 and 30 – 37 under §102(e) as anticipated by or, in the alternative, under §103(a) as obvious over Cohen et al.

By the amendments made herewith claims 11, 12 and 31-34 are cancelled and claims 13-17 are made dependent on claim 1. Claims 13-17 are submitted to be allowable over Cohen for the reason described above in relation to claim 1 by virtue of their dependency on claim 1 and by reciting further distinguishing features.

Regarding claims 30 and 35-37, it is submitted that these claims, as amended, distinguish over Cohen et al as Cohen et al does not disclose or suggest all of the limitations of claim 30, as amended. Claim 30, as amended, recites in relevant part, "one or more detail pages linked to at least one selection page for describing selected types of fasteners, wherein each of said detail pages includes a description of a selected type of fastener, a graphical representation of the type of fastener, a publicly accessible location of the type of fastener in a retail establishment and use information concerning recommended use of the type of fastener." As Cohen et al does not disclose or suggest fasteners or such fastener-related limitations, it is submitted that claim 30 is distinguishable over Cohen et al and that claims 35-37 are similarly

distinguishable by virtue of their dependence on claim 30 and for reciting further distinguishing features.

Further, it is respectfully submitted that it would not have been obvious to one of ordinary skill in the art to modify the teaching of Cohen et al to specifically apply it to fastener selection or any products of a like nature, such as small, high-variety, low-margin products of mechanical use. Cohen et al make no recognition of the particular problems associated with selecting and vending fasteners, nor do Cohen et al make any suggestion that their interactive retail terminal should be modified to facilitate selection and vending of fasteners. Accordingly, the person of ordinary skill in the art would not be motivated to modify Cohen et al to apply to vending fasteners.

The Examiner has rejected claims 18 – 23 as being unpatentable over Johnson (5,283,865) in view of Brewaeys et al under §103(a).

By the amendments made herewith, the features of claims 19 and 20 have been introduced into claim 18 and claims 19 and 20 have been cancelled. Accordingly, the Examiner's rejection of claims 19 and 20 is moot.

Applicants respectfully submit that Johnson and Brewaeys are not properly combinable but that, nevertheless, claims 18 and claims 21-23, as amended, distinguish over Johnson and Brewaeys, whether considered alone or in combination.

The disclosure of Brewaeys has been discussed above. As contended above, Brewaeys does not disclose numerous varieties of fasteners as Brewaeys is directed to a blister pack. Johnson describes a computer assisted parts sales system particularly suited to sales of parts such as automotive parts and other parts for which a sales assistant can be cost-effective. Johnson does not teach fastener selection or numerous varieties of fasteners, nor does Johnson teach a collection of pages describing various types of fasteners. Further, Johnson does not teach navigating through pages illustrated fasteners or viewing a detail page which includes information

relating to the location of a particular selected fastener in a retail establishment. Johnson also does not teach obtaining the particular fastener at the location. Accordingly, as neither Johnson nor Brewaeys alone or in combination disclose all of the features of amended claim 18, it is submitted that Johnson and Brewaeys are not properly combined and cannot render obvious the subject matter of claim 18 or dependent claims 21 to 23.

Further, there is no motivation in either Johnson or Brewaeys to combine these references. Brewaeys teaches a blister pack, while Johnson teaches a system for helping a sales assistant to make a sales pitch and process sales of parts such as automotive products. Neither reference provides any suggestion or motivation to combine blister pack teachings with a parts sales system to arrive at the invention recited in claims 18 and 21 to 23. Specifically, neither Brewaeys nor Johnson provides any motivation to combine their respective disclosures to arrive at a method of selecting a fastener suitable for a particular purpose from a collection of numerous varieties of fasteners as claimed in claims 18 and 21 to 23.

Rather, Johnson teaches away from fasteners as it is directed to assisting sales assistants to log sales orders for parts sales. As fasteners would not be a cost-effective part to be sold in such a parts sales system, due to their low margin and large number of different varieties and the relatively high cost of paying the wage of a sales assistant, a person skilled in the art would not be motivated to modify Johnson so as to apply it to vending or selecting fasteners.

As Johnson teaches away from vending fasteners and does not provide any motivation for combining with Brewaeys, and because Brewaeys does not provide any motivation for combining with the disclosure of Johnson, it is submitted that Johnson and Brewaeys are not properly combinable. Additionally, as neither Johnson nor Brewaeys, nor the combination of these references, discloses or suggests all of the features of claim 18, as amended, it is submitted that claim 18 and the claims dependent thereon, including claims 21 to 26, are allowable. Claims 21 to 26 are

submitted to be allowable by virtue of their dependence on amendment independent claim 18 and are setting further distinguishing features.

The Examiner has rejected claims 20 – 23 under §103(a) as being unpatentable over Johnson in view of Brewaeys et al as applied to claims 18 and 19 above, and further in view of Cohen et al.

Claim 20 is cancelled. Accordingly, the Examiner's rejection of claim 20 is moot.

As contended above in relation to the rejection of claims 18 – 23 as being unpatentable over Johnson in view of Brewaeys, there is no motivation to combine Johnson with Brewaeys. Nor is there any motivation in the references to combine Cohen et al with Brewaeys or Johnson with Cohen et al. In fact, as noted above, Johnson teaches away from fasteners as it is directed to assisting sales assistants to log sales orders for parts sales. As fasteners would not be a cost-effective part to be sold in such a parts sales system, due to their low margin and large number of different varieties and the relatively high cost of paying the wage of a sales assistant, a person skilled in the art would not be motivated to modify Johnson so as to apply it to vending or selecting fasteners. Further, Brewaeys does not even teach selecting fasteners as Brewaeys relates to a modified blister pack construction.

It is therefore submitted that Johnson, Brewaeys and Cohen et al are not properly combined as none of the references contains any motivation or suggestion to combine their respective disclosures, and further because Johnson teaches away from the invention. Further, even if Johnson, Brewaeys and Cohen et al are combined, the combination of references does not teach selecting a fastener suitable for a particular purpose from a collection of pages illustrating numerous varieties of fasteners, nor successfully viewing pages describing various types of fasteners to locate a particular fastener and then obtaining the particular fastener at the indicated location.

With respect to claims 21 and 22, the Examiner concedes that Johnson in view of Brewaeys and Cohen et al do not show providing real time stock information. However, the Examiner asserts that it would have been obvious to one of ordinary skill in the art to modify the method of Johnson by providing real time stock information. However, Johnson does not contain any motivation for such a modification. It is submitted that to raise such an objection without clear motivation to do so is to indulge in impermissible hindsight by hunting through the prior art to find each of the claimed elements and by supposing that one of ordinary skill in the art would have modified Johnson to arrive at the claimed feature. There is no apparent motivation for such a modification or reason for supposing that a person of ordinary skill in the art would seek to make such a modification. According to Dembiczak, 175 F. 3d at 999, given the "subtle but powerful attraction of a hindsight-based obviousness analysis" a "vigorous application of the requirement for a showing of the teaching or motivation to combine prior art references" is required.

For the above reasons at least, it is submitted that the Examiner's rejection of claims 21-23 as being unpatentable over Johnson in view of Brewaeys and further in view of Cohen et al is traversed. Further, claims 21-25 are submitted to be allowable by virtue of their dependence on amended claim 18.

The Examiner has rejected claims 27-29 under §103(a) as being unpatentable over Cohen et al in view of Brewaeys et al.

Claims 27-29 are cancelled. Accordingly, the Examiner's rejection of these claims is moot.

The Examiner has rejected claims 1 - 15, and 18 - 26 as being unpatentable over Treyz et al (6,587,835) in view of Brewaeys et al (4,408,693) under §103(a).

Claims 2-4, 11, 12, 19 and 20 are cancelled. Accordingly, the Examiner's rejection of these claims is moot.

Treyz et al teach a hand-held computing device for assisting a user in a shopping establishment such as a shopping mall (column 1, lines 19 to 22). the hand-held computing device may display product information when the user is in a store, including product information from multiple manufacturers. If desired, product information may be organized in various product categories. (Column 2, lines 48 to 56). Treyz et al does not disclose or suggest vending fasteners.

Brewaey's teaches a blister pack while Treyz et al teaches a hand-held computing device which can display product information. Both references are completely unrelated. Neither Brewaey's nor Treyz et al provide any motivation or suggestion for combining their teachings or modifying the teachings of either reference to arrive at the claimed invention. Further, even if Treyz et al were properly combined with Brewaey's, such a combination does not teach all of the features of amended independent claim 1 relating to stocking numerous varieties of fasteners in containers having visible container identifiers corresponding to visible container identifiers shown on the fastener pages.

Apart from being distinguishable from Treyz et al and Brewaey's by virtue of its dependence on claim 1, claim 7 recites that the user interface is provided by a personal computer and monitor. This is not taught by Treyz et al nor Brewaey's, nor is there any motivation in either reference to modify the reference to arrive at the features of claim 7.

It is noted that the Examiner has not provided any reason or rationale for his rejection of claim 8. It is submitted that neither Treyz et al nor Brewaey's teaches or suggests providing the software to a consumer on a pre-recorded storage medium. By virtue of its dependence on claims 7 and 1, and because it recites further distinguishing features, it is submitted that claim 8 is allowable over Treyz et al in view of Brewaey's.

Claims 13–15 depend directly or indirectly on claim 1 and are submitted to be patentably distinguishable over Treyz et al in view of Brewaeys for the reasons given in relation to claim 1 and because they contain further distinguishing features.

Claims 18 and 21–26 are submitted to be patentably distinguished over Treyz et al in view of Brewaeys because neither Treyz et al nor Brewaeys, either alone or in combination, teaches or suggests all of the features of amended claim 18, relating to a method of selecting a fastener from a collection of numerous varieties of fasteners, nor does either reference teach or suggest identifying an application in which a fastener may be used, accessing a collection of pages describing various types of fasteners, navigating through the pages illustrating various types of fasteners successively to locate a particular fastener and then obtaining the fastener at the location in the retail establishment. Dependent claims 21–26 are submitted to be patentably distinguished for reasons similar to those provided in relation to claim 18 and by virtue of reciting further patentable features.

Claims 40–53 are new. Claims 40–44 depend directly or indirectly on claim 1 and are submitted to be allowable for reasons similar to those described above in relation to claim 1 and by virtue of reciting further distinguishing features. Claims 43 and 44, in particular, recite limitations regarding the information displayed on the fastener pages, where that information includes a graphical representation of a particular type of stocked fastener and use information concerning recommended use of that fastener type. These features are neither disclosed nor suggested by the references cited in support of the Examiner's rejection of claim 1.

Claims 45 to 47 depend directly or indirectly on claim 18 and serve to further define the information displayed on the pages (in claims 45 and 46) and that the location of the particular fastener is indicated by a readily identifiable visible container identifier displayed on the detailed page and at the location in the retail establishment (in claim 47).

Claims 48 and 49 depend on claim 30. Claim 48 further defines the use information, while claim 49 further defines that the public accessible location is identified by a retail location identifier and a visible container identifier identifying a container in which the type of fastener is stocked. It is submitted that these features are not disclosed or suggested by the references cited in support of the Examiner's rejection of claim 30.

New claim 50 corresponds generally to cancelled claims 27 to 29. It is submitted that claim 50 is distinguishable over Cohen et al in view of Brewaeys, as originally cited against claims 27 to 29, as neither Cohen et al nor Brewaeys suggests a method of locating a particular fastener substantially similar to a sample fastener in the manner claimed. Specifically, neither Cohen et al nor Brewaeys, alone or in combination, discloses comparing a characteristic of a sample fastener with a fastener displayed on one of the collection of pages and then selecting a next page to be displayed based on the result of the comparison. Further, the cited references do not disclose repeating such steps to progressively select a type of fastener more closely resembling the sample fastener until the fastener which more closely resembles the sample fastener is found. The method as claimed is particular helpful for consumers to locate more of a particular type of fastener among numerous varieties of fasteners stocked in the retail establishment. Neither Cohen et al nor Brewaeys addresses problems regarding location of fasteners similar to a sample fastener, nor do they disclose or suggest such a solution as claimed in claim 50.

Claim 51 depends on claim 50 and further defines the method by reference to determining a location of the particular fastener in the retail location from location information on the page which comprises a visible container identifier identifying a container in which the particular fastener is stocked. It is submitted that such features are neither disclosed nor suggested by the Cohen et al or Brewaeys references, alone or in combination.

New claim 52 corresponds generally to original claim 11, but including further limitations relating to shelves located in the retail establishment and identified by a section code and a plurality of types of fasteners stocked on the shelves. The fasteners are stocked in predetermined containers corresponding to the visible container identifiers shown on the detail pages displayed on the user interface of the computer. As contended above, such features are not disclosed or suggested by the cited references.

New claim 53 depends on claim 52 and further defines the information contained on each detail page.

It is believed that no new matter is added.

In view of the forgoing amendments and remarks, Applicants respectfully submits that the application is in condition for allowance. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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